

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

NOT FOR PUBLICATION

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ JUNE 30 2005 ★

PIERRE HENDRICKSON,

Petitioner,

-against-

ORDER BROOKLYN OFFICE
05-CV-2751 (ERK)

CALVIN E. WEST,

Respondent.

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KORMAN, Ch. J.

On May 27, 2005, petitioner, proceeding *pro se*, filed this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The instant petition is an exact duplicate of a pending habeas petition that was filed on May 16, 2005. See Hendrickson v. West, 05-cv-2549 (ERK) (petition annexed).¹ The instant petition raises no new allegations, and the only difference between the two petitions is that the first petition is dated May 12, 2005, and the second petition is dated May 26, 2005.

Accordingly, no useful purpose would be served by the litigation of this duplicative petition. Therefore, the instant petition is dismissed without prejudice to the litigation pending in Hendrickson v. West, 05-cv-2549 (ERK). See Curtis v. Citibank, N.A., 226 F.3d 133, 138 (2d Cir. 2000) ("As part of its general power to administer its docket, a district court may stay or dismiss a suit that is duplicative of another federal court suit.").

¹ The rule stated in Ching v. United States, 298 F.3d 174, 177 (2d Cir. 2002), does not apply here (holding that "when a § 2255 motion is filed before adjudication of an initial § 2255 motion is complete, the district court should construe the second § 2255 motion as a motion to amend the pending § 2255 motion").

A certificate of appealability will not issue because petitioner has not made a substantial showing of the denial of a constitutional right. See 28 U.S.C. § 2253 (c)(2). The Court certifies pursuant to 28 U.S.C. § 1915 (a)(3) that any appeal from this order would not be taken in good faith and therefore *in forma pauperis* is denied for the purpose of appeal. See Coppedge v. United States, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

s/Edward R. Korman
EDWARD R. KORMAN
United States District Judge

Dated: Brooklyn, New York
6/10 2005